



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2015-0158]

RIN 1625-AA00

Safety Zone; ARCTIC CHALLENGER, Port of Bellingham; Bellingham, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone around the barge ARCTIC CHALLENGER within the waters of the Captain of the Port Zone Puget Sound. This action is necessary to ensure the safety of the maritime public and the crews involved in operational testing of the Arctic Containment System, and will do so by prohibiting all persons and vessels not involved with the operational testing of the Arctic Containment System from entering, transiting, or remaining in the safety zone unless authorized by the Captain of the Port or his Designated Representative.

DATES: This rule is effective without actual notice from [INSERT

DATE OF PUBLICATION IN THE FEDERAL REGISTER] until April 1, 2015. For the purposes of enforcement, actual notice will be used from the date the rule was signed, March 11, 2015, until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2015-1058 to view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Petty Officer Ryan Griffin, Waterways Management Division, Coast Guard Sector Puget Sound; Coast Guard; telephone (206) 217-6051, e-mail SectorPugetSoundWWM@uscg.mil.

If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b) (B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing an NPRM would be impracticable as delayed promulgation may result in injury or damage to the maritime public, vessel crews, the vessels themselves, and the facilities prior to conclusion of a notice and comment period.

Under 5 U.S.C. 553(d) (3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Delaying the effective date until 30 days after publication would be impracticable, as such a delay would eliminate the safety zone's effectiveness and usefulness in protecting waterway users,

property, and the safe navigation of maritime traffic from the hazards associated with sea trials before 30 days have elapsed.

B. Basis and Purpose

Coast Guard Captains of the Port are granted authority to establish safety and security zones in 33 CFR 1.05-1(f) for safety and environmental purposes, described in 33 CFR Part 165.

The ARCTIC CHALLENGER is a barge currently located at the Port of Bellingham that has been converted by Superior Energy Services for use in the Arctic drilling operations as a containment system that would respond in the event that a well blowout should occur.

The ARCTIC CHALLENGER is scheduled to depart the Port of Bellingham to anchor inside the East Vendovi Island Anchorage site located in the Samish Bay. While at anchorage, the ARCTIC CHALLENGER will be conducting several operational tests of the Arctic Containment System. These operational tests are complex and will involve five different vessels in conducting deployment and recovery of containment dome systems and subsea pump operation and testing. As a result, the Coast Guard is establishing a temporary safety zone which is necessary to ensure the safety of the maritime public and workers involved in the operational tests.

C. Discussion of the Final Rule

The Coast Guard is establishing a temporary safety zone

which encompasses all waters within 100 yards of the barge ARCTIC CHALLENGER, located in Samish Bay.

Vessels not involved with the operational testing of the Arctic Containment System wishing to enter the zone must request permission for entry by contacting the Joint Harbor Operations Center at 206-217-6001, or the on-scene patrol craft via VHF-FM CH 13. Once permission for entry is granted, vessels must proceed at a minimum speed for safe navigation.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This rule is not a significant regulatory action as the safety zone is limited both in size and duration.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-

612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the affected waterway during the period mentioned. This safety zone will not have a significant economic impact on a substantial number of small entities because the zone established in this rule is limited in size and duration. Further, vessels wishing to pass through the zone may do so with permission of the Captain of the Port.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of

protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INTFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the

National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a 100 yard safety zone around the barge ARCTIC CHALLENGER. The rule will prevent any vessel not involved with operational tests of the Arctic Containment System from approaching within 100 yards of ARCTIC CHALLENGER without permission of the Captain of the Port. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165 - REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 is revised to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T13-285 to read as follows:

§ 165.T13-285 Safety Zone; ARCTIC CHALLENGER, Port of Bellingham; Bellingham, WA.

(a) Location. The following areas are designated as a safety zone: all waters within 100 yards of the vessel ARCTIC CHALLENGER as it conducts operational tests of the Arctic Containment System within the waters of the Captain of the Port Zone Puget Sound.

(b) Regulations. In accordance with the general regulations in subpart C of this part vessels not involved with the Arctic Containment System operational tests who wish to enter the zone must request permission for entry by contacting the Joint Harbor Operation Center at 206-217-6001 or the on-scene patrol craft on VHF-FM CH13. Once permission for entry is granted vessels must proceed at a minimum speed for safe navigation.

(c) Dates. This rule is effective [insert date of publication in the federal register] through April 1, 2015. It is enforceable from 12 a.m. on March 11, 2015 until 12 a.m. on April 1, 2015.

Dated: March 11, 2015.

M. W. Raymond,
Captain, U.S. Coast Guard,
Captain of the Port, Puget Sound.

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3/25/2015]